

REMARKS

The Office Action of March 26, 2007, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, Claims 1, 3-6 and 11 -14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ginn (U.S. Patent No. 6,022,313) and claims 1, 3-6 and 11-14 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bayer (U.S. Published Application No. 2004/0204725). Claims 5-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginn or Bayer in view of Haber et al. (U.S. Patent No. 5,282,806).

The Examiner notes that the Terminal Disclaimer submitted on June 26, 2007 did not include an attorney registration number. A revised Terminal Disclaimer including an attorney registration number is submitted herewith, the fee have been previously submitted on June 26, 2007. Acknowledgement and acceptance thereof is kindly requested.

As set forth above, Claim 1 has been amended to recite a cone portion fixedly secured to and integral with a distal end of said endoscopic barrel. The cone portion has an interior surface facing the distal end of said endoscopic barrel and a conical exterior surface facing outwardly from the apparatus. As further clarified, the cone portion includes at least one fork recess in the conical exterior surface for seating said at least one manipulator fork against the exterior surface and not allowing said at least one manipulator fork to pass therethrough when in a retracted position such that a conical profile of the exterior surface of said cone portion is maintained.

In rejecting Claim 1, the Examiner relies upon Ginn for disclosing an apparatus for harvesting a saphenous vein. The apparatus of Ginn includes a guide member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface facing outwardly from the apparatus as recited in Claim 1. Still further, the guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. Ginn does not disclose a recess in the conical exterior surface for seating the manipulator fork against the exterior surface and not allowing said at least one manipulator fork to pass therethrough when in a retracted position such that a conical profile of the exterior surface of said cone portion is maintained. Clearly, the lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25. Applicant respectfully submits that Ginn fails to anticipate the invention of Claim 1.

Bayer, upon which the Examiner also relies, discloses a blunt tip 100 which must be extended and/or rotated relative to the endoscopic barrel in order to permit ligating instrument 132 to access the vessel 210. As such, Bayer does not disclose a cone portion fixedly secured to and integral with a distal end of said endoscopic barrel, as recited above in amended Claim 1. Further, the blunt tip 100 of Bayer includes a notched portion 120 which is on the proximal, or interior side of the tip 100. The notched portion 120 is dimensioned to facilitate cradling, orientation and positioning or grasping of the vessel 210 during ligation. The Examiner refers to Figure 8 of Bayer for support of a manipulator 134a, 134b being extended through the cone portion and the cone thereby providing a recess for receiving the manipulator. Referring to the amended claim language, the recess of Bayer relied upon by the Examiner is on an interior surface and not on the exterior surface facing

outwardly from the apparatus. Hence, Bayer does not disclose a recess in the conical exterior surface of the cone portion, as now recited in claim 1. Moreover, the recess of Bayer relied upon by the Examiner does not allow for seating of said at least one manipulator fork against the exterior surface. Thus, Applicant respectfully contends that Claim 1 is not anticipated by Bayer.

Claim 12 as amended above recites that the cone portion has a conical exterior surface facing outwardly from the apparatus. As set forth above, the apparatus of Ginn includes a guide member 20 with a slanted surface 23. Ginn does not disclose or suggest a conical exterior surface facing outwardly from the apparatus. Claim 12 further recites that the manipulator fork is disposed exterior to the cone portion when in a retracted position and when dissecting the desired blood vessel. The guide member 20 of Ginn includes a plurality of lumens for receiving surgical instruments, such as scissors 28. The lumen 38 permits retraction of the scissors 28 through the lumen opening and into the tube 25. Accordingly, Applicant submits that Claim 12 is not anticipated by Ginn.

With respect to the rejection over Bayer, Claim 12 now recites a cone portion integral with said endoscopic barrel and which is fixedly secured to a distal end of the endoscopic barrel during harvesting of a desired blood vessel. Bayer discloses a blunt tip 100 which must be extended and/or rotated relative to the endoscopic barrel in order to permit ligating instrument 132 to access the vessel 210. As such, the blunt tip 100 is not integral with the barrel and it is not fixedly secured during harvesting. Applicant respectfully contends that Bayer does not anticipate Claim 12.

The remaining claims depend upon either Claim 1 or Claim 12 and are thus patentable over the cited prior art for at least the reasons set forth above. The undersigned counsel for Applicant kindly requests an interview with the Examiner to resolve any remaining issues in this application and will telephone the Examiner to arrange the same.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully submit that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: January 11, 2008

By:



Wendi L. Weinstein
Registration No. 34456

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620